

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

LESTER JON RUSTON,)	
)	
Petitioner,)	
v.)	Civil Action
)	No. 10-3102-CV-S-RED-H
MARTY C. ANDERSON, Warden,)	
United States Medical Center for)	
Federal Prisoners,)	
)	
Respondent.)	

ORDER AND JUDGMENT

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate has completed his preliminary review of the petition herein for a writ of habeas corpus and has submitted to the undersigned a report and recommendation that the petition for a writ of habeas corpus be dismissed without prejudice.

Petitioner has filed exceptions to the report and recommendation of the Magistrate, in which he appears to continue to challenge his underlying criminal charges.

Having fully reviewed the record de novo, the Court agrees with the Magistrate that the petition should be dismissed. The record indicates that petitioner's criminal case and commitment proceedings are currently pending before the District Court for the Northern District of Texas and the Fifth Circuit Court of Appeals. These courts are the proper forum in which to pursue the relief

he seeks.

Based on the file and records in this case, it is concluded that the findings of fact, conclusions of law, and proposed actions of the Magistrate are correct and should be approved. Accordingly, the Court finds that the petition for habeas corpus relief must be dismissed without prejudice.¹

It is therefore

ORDERED that petitioner's exceptions filed herein be, and they are hereby, considered and overruled. It is further

ORDERED that petitioner be, and he is hereby, denied leave to proceed in forma pauperis. It is further

ADJUDGED that the petition herein for a writ of habeas corpus be, and it is hereby, dismissed without prejudice.

/s/ Richard E. Dorr
RICHARD E. DORR
United States District Judge

Date: April 26, 2010

¹The Federal Public Defender's Office has filed a motion to withdraw. Given the status of this case, the motion will be granted.